

Construction Advisory

CA 2007-07
April 25, 2007

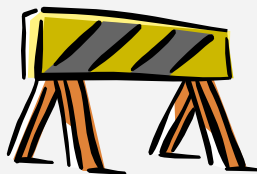
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Index: Hot Mix Asphalt
(HMA)

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Construction Advisory
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BJO:CJB

FHWA Conditional Approval of Percent Within Limit (PWL) Frequently Used Special Provision 03 FUSP 504(c)

This construction advisory provides clarification regarding the FHWA's conditional approval of the PWL Frequently Used Special Provision 03 FUSP 504(c). The FHWA's conditional approval letter of September 11, 2006, states: "FHWA expects MDOT to prevent continual production of nonconforming work at a reduced price in lieu of making adjustments to bring work into conformance". In light of this, FHWA will not participate with federal funding in any third consecutive lot or subsequent consecutive lots of material found to be in penalty. (Note: This does not apply to the initial production lots.)

To ensure federal funding is not jeopardized, every attempt shall be made to obtain specification material at 100 percent pay.

The following items shall be included in the contractor's QC plan to assist the engineer in preventing continual production

of nonconforming material at a reduced price in lieu of making adjustments to bring the material into conformance:

- QC plans shall provide the contractor's testing methods, and the specific time frames for obtaining and providing test results to the engineer.
- QC plans shall include language stating "when QC results for a lot are showing a resultant pay factor of less than 100 percent, necessary and appropriate adjustments will be made to obtain specification material at 100 percent pay".
- Document necessary and appropriate adjustments according to Section b.2.F of frequently used special provision 03 FUSP 504(c), including how the adjustment is intended to obtain

specification material.

- Documentation of adjustments will be provided to the project engineer and kept with the project records.

If QC results show less than 100 percent resultant pay factor and no documented adjustments were made, and if the next subsequent QC lot results show less than 100 percent pay factor, then the contractor shall be issued a Notice of Non-compliance with Contract Requirements (form 1165). HMA production must stop for failure to follow the approved HMA QC plan in accordance with Section f.7 of frequently used Special Provision 03 FUSP 504(c).

The Engineer's QA plan shall note: When QA results for a lot of material result in a resultant pay factor less than 100 percent, then the QA results will be reviewed by the engineer and the contractor. The

contractor will make adjustments, if deemed necessary, to bring the material into conformance at 100 percent pay. It should be noted that region QA results are the test of record until the results of any dispute resolution tests are known.

If after receiving QA test results for two lots of material in a row that have pay factors of less than 100 percent, and necessary and appropriate adjustments have been incorporated into

production, then the QC/QA operations and processes should be reviewed along with all test data. If, after a thorough review of QC/QA operations and processes by the engineer and contractor, a conclusive plan of corrective action by the contractor to bring the material into 100 percent pay cannot be determined, then the contractor may be issued a Notice of Non-compliance with Contract Requirements (form 1165) and HMA production must

stop in accordance with Section 104.01 and 104.04.

The key to ensuring FHWA participation is reviewing QC and QA data in a timely manner and making the appropriate adjustments to provide full pay material. Everyone involved should take due diligence in all production and construction matters to ensure all HMA produced and placed is in conformance with the specifications.